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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

S & L VITAMINS, INC., Plaintiff/Counterclaim Defendant, v. AUSTRALIAN GOLD, INC., Defendant/Counterclaim Plaintiff.	05 CV 1217 (JS)(ML)
AUSTRALIAN GOLD, INC., Third Party Plaintiff, v. LARRY SAGARIN AND JOHN DOES, 1-10, Third Party Defendants,	

MOTION FOR EXTENSION OF TIME TO JOIN ADDITIONAL PARTIES AND AMEND THE PLEADINGS

Defendant/Counterclaim Plaintiff Australian Gold, Inc., by counsel, respectfully requests that the Court grant it an additional sixty days in which to join additional parties and amend the pleadings. In support of this Motion, Australian Gold states as follows:

1. On July 25, 2005, the Court set the deadline for joining additional parties and amending the pleadings as November 30, 2005, which time has not yet expired.

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2. On October 5, 2005, Australian Gold sent its First Request for Production of Documents to S & L Vitamins, Inc. and Larry Sagarin and its First Set of Interrogatories to S & L Vitamins, Inc. and Larry Sagarin.

3. On November 7, 2005, S & L Vitamins and Larry Sagarin responded to the written discovery and agreed to produce documents responsive to the discovery requests. However, despite numerous attempts to arrange a date and location to review and inspect documents, S & L Vitamins has not yet agreed to make them available. As such, Australian Gold has not had the opportunity to review even one document responsive to its discovery requests.

4. Further, none of S & L Vitamins' suppliers that were subpoenaed by Australian Gold has produced any documents in response to the subpoenas.[1/] In fact, one such supplier is subject to an order compelling production of documents by no later than December 9, 2005. Australian Gold is therefore unable to determine if any of these suppliers should be named as co-defendants in this lawsuit.

5. On November 23, 2005, in a letter sent to the Court in response to S & L Vitamins, Inc.'s complaint about the manner in which we have conducted discovery, Australian Gold noted to the Court that the November 30, 2005 deadline was quickly approaching and requested an extension of time to add additional parties and amend its pleadings so that it would have adequate time to receive and review the outstanding discovery.

6. Accordingly, Australian Gold requests that the Court extend the deadline to join additional parties and amend its pleadings an additional sixty days, up to and including January 30, 2006. This extension of time is warranted in light of S & L Vitamins, Inc. and its suppliers'

[1/] As this Court is well aware, the identities of S&L Vitamins' suppliers were produced pursuant to this Court's Protective Order.

failure to produce documents. Further, this extension of time would not interfere with any other case management deadline as the fact discovery cutoff is not until March 31, 2005.

WHEREFORE, Australian Gold, by counsel, respectfully requests that this Court grant it an extension of time of sixty days, up to and including January 30, 2006, in which to join additional parties and amend its pleadings, and for all other appropriate relief.

Dated: November 30, 2005
New York, New York

Respectfully submitted,

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